

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

DONNA MAE KOETJE,

Petitioner,  
v.

CASE NO. 05-CV-70660-DT  
HONORABLE GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CLARICE STOVALL,

Respondent,  
\_\_\_\_\_ /

**OPINION AND ORDER DENYING THE**  
**MOTION FOR A CERTIFICATE OF APPEALABILITY**

On August 15, 2006, this Court issued an opinion and order denying petitioner's application for habeas relief brought pursuant to 28 U.S.C. § 2254. This Court also denied petitioner a certificate of appealability. *Koetje v. Stovall*, No. 2006 WL 2365132 (E.D.Mich. August 15, 2006). On September 12, 2006, petitioner filed a notice of appeal. Petitioner also filed a motion for certificate of appealability, which the Court construes as a motion for reconsideration of its prior opinion and order. For the reasons stated below, the motion for a certificate of appealability is **DENIED**.

Because this Court previously denied petitioner a certificate of appealability when it denied the petition for writ of habeas corpus, the Court will construe petitioner's motion for a certificate of appealability as a motion for reconsideration of the Court's prior order to deny a certificate of appealability in this case. See

*e.g. Jackson v. Crosby*, 437 F. 3d 1290, 1294, n. 5 (11<sup>th</sup> Cir. 2006); *cert. den. sub nom Jackson v. McDonough*, 127 S. Ct. 240 (2006).

U.S. Dist.Ct. Rules, E.D. Mich. 7.1 (h) allows a party to file a motion for reconsideration. However, a motion for reconsideration which presents the same issues already ruled upon by the court, either expressly or by reasonable implication, will not be granted. *Ford Motor Co. v. Greatdomains.com, Inc.*, 177 F. Supp. 2d 628, 632 (E.D. Mich. 2001). A motion for reconsideration should be granted if the movant demonstrates a palpable defect by which the court and the parties have been misled and show that correcting the defect will lead to a different disposition of the case. *See DirecTV, Inc. v. Karpinsky*, 274 F. Supp. 2d 918, 921 (E.D. Mich. 2003).

In her motion for certificate of appealability, petitioner contends that she is entitled to a certificate of appealability, because her claims are not frivolous. The mere fact that petitioner claims that her appeal is not frivolous and is being undertaken in good faith would not entitle her to a certificate of appealability. *Miller-El v. Cockrell*, 537 U.S. 322, 338 (2003); *United States v. Mikels*, 236 F. 3d 550, 551 (9<sup>th</sup> Cir. 2001); *Lohr v. United States*, 336 F. Supp. 2d 930, 932 (D. Minn. 2004). Instead, petitioner must make a substantial showing of the denial of a constitutional right to obtain a certificate of appealability. For the reasons stated by the Court in its original opinion and order, petitioner has failed to make such a showing.

Petitioner's request for reconsideration will therefore be denied, because petitioner is merely presenting issues which were already ruled upon by this Court, either expressly or by reasonable implication, when the Court denied petitioner's application for writ of habeas corpus and denied her a certificate of appealability. See *Hence v. Smith*, 49 F. Supp. 2d 547, 553 (E.D. Mich. 1999).

**ORDER**

IT IS ORDERED that the Motion for Certificate of Appealability [Court Dkt Entry # 30] is DENIED.

Dated: January 31, 2007

S/George Caram Steeh  
GEORGE CARAM STEEH  
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

Copies of this Order were served upon attorneys of record on January 31, 2007, by electronic and/or ordinary mail.

S/Josephine Chaffee  
Deputy Clerk